

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JARED ANDREW MARTIN,

Plaintiff,

v.

GUTIERREZ, et al.,

Defendant.

No. 1:22-cv-00600-ADA-BAM (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS REGARDING
DISMISSAL OF CERTAIN CLAIMS AND
DEFENDANTS

(ECF No. 16)

Plaintiff Jared Andrew Martin is a county jail inmate and former state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983.

On August 16, 2022, the assigned Magistrate Judge screened Plaintiff's complaint and granted leave either to file an amended complaint or notify the Court of his willingness to proceed on the cognizable claim the Magistrate Judge identified. (ECF No.12.) On August 23, 2022, Plaintiff notified the Court of his willingness to proceed on the sole cognizable claim in his complaint. (ECF No. 13.) Plaintiff noted that while he was willing to proceed on the claim identified, he was not in agreement with the screening order. (*Id.*)

Pursuant to Plaintiff's notification, on August 24, 2022, the Magistrate Judge issued findings and recommendations suggesting this action proceed on Plaintiff's complaint against Defendant Gutierrez for excessive force in violation of the Eighth Amendment. (ECF No. 16.)

1 The Magistrate Judge further recommended dismissal of all other claims and defendants based on
2 Plaintiff's failure to state claims upon which relief may be granted. (*Id.*) The findings and
3 recommendations were served on Plaintiff and contained notice that any objections would be due
4 within fourteen days after service. (*Id.* at 13.) The Court also noted that Plaintiff could raise
5 objections to the screening order in response to the findings and recommendations. (*Id.* at 2.) On
6 September 6, 2022, Plaintiff filed timely objections. (ECF. No. 19.)

7 Plaintiff's objections generally set forth disagreement with the Magistrate Judge's
8 findings and recommendations. As Plaintiff supports his disagreements with the same types of
9 conclusory allegations set forth in his complaint, the Court finds no basis for setting aside the
10 Magistrate Judge's findings and recommendations.

11 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a
12 *de novo* review of the case. Having carefully reviewed the entire file, including Plaintiff's
13 objections, the Court finds the findings and recommendations to be supported by the record and
14 by proper analysis.

15 Accordingly,

- 16 1. The findings and recommendations issued on August 24, 2022, (ECF No. 16), are
17 adopted in full;
- 18 2. This action shall proceed on Plaintiff's complaint, filed May 20, 2022, (ECF No.
19 1), against Defendant Gutierrez for excessive force in violation of the Eighth
20 Amendment;
- 21 3. All other claims and defendants are dismissed from this action for failure to state
22 claims upon which relief may be granted; and

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 4. This action is referred back to the Magistrate Judge for proceedings consistent
2 with this order.

3
4
5 IT IS SO ORDERED.

6 Dated: September 29, 2022


UNITED STATES DISTRICT JUDGE